

# **Notice of Allowability**

**Application No.**

09/981,087

**Examiner**

Ashwin Mehta

**Applicant(s)**

YANOFSKY ET AL.

**Art Unit**

1638

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers submitted 23 December 2003.
2. ☒ The allowed claim(s) is/are 40 and 66-80.
3. ☒ The drawings filed on 29 December 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## **Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 01282004 .
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

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***Claim Rejections***

1. The rejection of claims 40 and 66-78 under the judicially created doctrine of obviousness-type double patenting is withdrawn, in light of the terminal disclaimer.
2. The rejection of claims 40 and 66-74 under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, is withdrawn in light of the claim amendments.
3. The rejection of claims 40, 66, and 69-74 under 35 U.S.C. 112, 1<sup>st</sup> paragraph, is withdrawn in light of the claim amendments and Applicant's arguments.

***Drawings***

4. The amendments to the drawings, canceling Figure 9 and inserting substitute Figures 8A-D, have been entered.

***Examiner's Amendment***

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Matthew Hinsch on January 28, 2004.

The application has been amended as follows:

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In the claims:

80. The transgenic plant of claim 75 [method of claim 40], wherein the polypeptide fragment comprises the K or C domains of SEQ ID NO: 2.

6. Applicants are notified that the specification was amended as follows:

The paragraph on page 1, lines 5-8, was amended as follows:

This application is a divisional application of and claims the benefit of U.S. Patent Application Serial No. 09/339,998, now U.S. Patent No. 6,410,826, filed June 25, 1999, which claims the benefit of U.S. Provisional Patent Application Serial No. 60/090,649, filed June 25, 1998, each of which is incorporated herein by reference.

The paragraph on page 11, starting on line 16, has been amended as follows:

Figure 8 (A-D) shows the nucleotide sequence (SEQ ID NO: 24) and amino acid (SEQ ID NO: 25) of *Arabidopsis* R-like basic helix-loop-helix transcription factor (R-like bHLH). The nucleotide sequence SEQ ID NO: 24 includes sufficient promoter sequence to give valve margin specific expression.

#### ***Contact Information***

Any inquiry concerning this or earlier communications from the examiner should be directed to Ashwin Mehta, whose telephone number is 571-272-0803. The examiner can normally be reached on Mondays-Thursdays and alternate Fridays from 8:00 A.M to 5:30 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached at 571-272-0804. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 and 703-872-9306 for regular communications and 703-872-9307 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

January 28, 2004

A handwritten signature in black ink, appearing to read 'Ashwin D. Mehta', is positioned above the printed name.

Ashwin D. Mehta, Ph.D.  
Primary Examiner  
Art Unit 1638